

Hearing Date and Time: August 12, 2019, 9:00 a.m. (Eastern Time)  
Objection Deadline and Time: August 5, 2019, 4:00 p.m. (Eastern Time)

WOLLMUTH MAHER & DEUTSCH LLP  
500 Fifth Avenue  
New York, New York 10110  
(212) 382-3300  
James N. Lawlor  
Cassandra Postighone  
- and -

THE LAW OFFICES OF MICHAEL M. MULDER  
1603 Orrington Avenue, Suite 600  
Evanston, Illinois 60201  
Telephone: 312-263-0272  
Michael M. Mulder\*  
Elena N. Liveris\*  
*\*Pro hac application pending*

*Proposed Counsel to the Official Committee of  
Retirees with Life Insurance Benefits of the  
Sears Holdings Corporation, et al.*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

SEARS HOLDINGS CORPORATION, *et al.*,

Debtors.

Case No: 18-23538 (RDD)

Chapter 11

(Jointly Administered)

**NOTICE OF HEARING ON APPLICATION OF THE OFFICIAL  
COMMITTEE OF RETIREES WITH LIFE INSURANCE BENEFITS  
OF THE SEARS HOLDINGS CORPORATION, ET AL. TO RETAIN  
AND EMPLOY THE LAW OFFICES OF MICHAEL M. MULDER AS  
CO-COUNSEL, *NUNC PRO TUNC* TO JULY 9, 2019**

**PLEASE TAKE NOTICE** that on **August 12, 2019, at 9 a.m. (New York City time)**,  
or as soon thereafter as counsel may be heard, a hearing on the *Application of the Official  
Committee of Retirees With Life Insurance Benefits of the Sears Holdings Corporation, et al. to*

*Retain and Employ The Law Offices of Michael M. Mulder as Co-Counsel, Nunc Pro Tunc to July 9, 2019* (the “Application”) will be held before the Honorable Robert D. Drain, United States Bankruptcy Judge, at the United States Bankruptcy Court for the Southern District of New York, Courtroom 118, 300 Quarropas Street, White Plains, New York 10061-4140 (the “Bankruptcy Court”).

**PLEASE TAKE FURTHER NOTICE** that the Retirees shall also rely on the accompanying Declaration of Michael M. Mulder, as well as all documents and pleadings on file in the Debtors’ chapter 11 cases.

**PLEASE TAKE FURTHER NOTICE** that any responses or objections to the Application must be in writing, conform to the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and the Local Rules of the Bankruptcy Court, set forth the legal and factual basis therefore and be filed with the Bankruptcy Court electronically in accordance with General Order M-399 (which can be found at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov), the official website for the Bankruptcy Court), by registered users of the Bankruptcy Court’s case filing system and, by all other parties in interest, on a CD-ROM, in text-searchable Portable Document Format (PDF), Wordperfect or any other Windows-based word processing format (with a hard-copy delivered directly to Chambers), and be served in accordance with General Order M-399, to the extent applicable, and the *Amended Order Implementing Certain Notice And Case Management Procedures*, entered on November 1, 2018 (ECF 405), so as to be received no later than **August 5, 2019, at 4:00 p.m. (New York City time) (the “Objection Deadline”)**.

**PLEASE TAKE FURTHER NOTICE** that parties prosecuting the Application or any objection thereto are required to attend the hearing, and failure to attend in person or by counsel may result in relief being granted or denied upon default.

**PLEASE TAKE FURTHER NOTICE** that, in the event that no objection to the Motion has been properly filed and served by the Objection Deadline, the Retirees Committee may, on or after the Objection Deadline, submit to the Bankruptcy Court an order substantially in the form annexed as Exhibit A to the Application, and the Bankruptcy Court may enter the order without further notice or opportunity to be heard.

New York, New York  
July 30, 2019

Respectfully submitted,

By: /s/ James N. Lawlor

James N. Lawlor  
Cassandra Postighone  
Michael M. Mulder  
Elena N. Liveris

WOLLMUTH MAHER & DEUTSCH LLP  
500 Fifth Avenue  
New York, New York 10110  
P: 212-382-3300  
F: 973-741-2398  
Telephone: (212) 382-3300  
Facsimile: (212) 382-0050

- and -

Michael M. Mulder\*  
Elena N. Liveris\*  
THE LAW OFFICES OF MICHAEL M. MULDER  
1603 Orrington Avenue, Suite 600  
Evanston, Illinois 60201  
Telephone: 312-263-0272

*Proposed Counsel to the Official Committee of  
Retirees with Life Insurance Benefits of the  
Sears Holdings Corporation, et al.*  
*\*Pro hac application pending*

Hearing Date and Time: August 12, 2019, 9:00 a.m. (Eastern Time)  
Objection Deadline and Time: August 5, 2019, 4:00 p.m. (Eastern Time)

THE LAW OFFICES OF MICHAEL M. MULDER  
1603 Orrington Avenue, Suite 600  
Evanston, Illinois 60201  
Telephone: 312-263-0272  
Michael M. Mulder\*  
Elena N. Liveris\*  
*\*Pro hac application pending*

*Proposed Counsel to the Official Committee of  
Retirees with Life Insurance Benefits of the  
Sears Holdings Corporation, et al.*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

SEARS HOLDINGS CORPORATION, *et al.*,

Debtors.

Case No: 18-23538 (RDD)

Chapter 11

(Jointly Administered)

**APPLICATION OF THE OFFICIAL COMMITTEE OF RETIREES WITH  
LIFE INSURANCE BENEFITS OF THE SEARS HOLDINGS  
CORPORATION, ET AL. TO RETAIN AND EMPLOY THE LAW OFFICES  
OF MICHAEL M. MULDER AS CO-COUNSEL, *NUNC PRO TUNC* TO JULY  
9, 2019**

**TO: THE HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE**

The Official Committee of Retirees With Life Insurance Benefits (the “Retirees Committee”) of Sears Holdings Corporation and its affiliated debtors and debtors in possession (collectively, the “Debtors”) hereby submits this application (the “Application”), pursuant to sections 328(a) and 1103(a) of title 11 of the United States Code (the “Bankruptcy Code”), rules 2014 and 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and rules

2014-1 and 2016-J of the Local Rules of Bankruptcy Procedure for the United States Bankruptcy Court for the Southern District of New York (the “Local Rules”), for entry of an order, substantially in the form attached hereto as **Exhibit A**, authorizing the Retirees Committee to retain and employ The Law Offices of Michael M. Mulder (“Mulder Law”) as its co-counsel in connection with the Debtors’ chapter 11 cases (the “Chapter 11 Cases”), effective *nunc pro tunc* to July 9, 2019.<sup>1</sup> In support of this Application, the Retirees Committee submits the declaration of Michael M. Mulder, a partner of Mulder Law (the “Mulder Declaration”), attached hereto as **Exhibit B**. In further support of this Application, the Retirees Committee respectfully represents as follows.

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334, and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.). This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).
2. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory and rule predicates for the relief requested herein are Bankruptcy Code sections 328(a) and 1103, Bankruptcy Rules 2014(a) and 2016, and Local Rules 2014-1 and 2016-1.

### **BACKGROUND**

4. On October 15, 2018 (the “Petition Date”), the Debtors filed petitions for relief under chapter 11 of the Bankruptcy Code, thereby commencing the chapter 11 cases (the “Chapter 11 Cases”). The Debtors continue to manage and operate their assets and business as debtors in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

---

<sup>1</sup> Wollmuth Maher & Deutsch LLP is also proposed co-counsel for the Retirees Committee.

5. An official committee of Retirees with Life Insurance Benefits (the “Retirees Committee”) was appointed on July 9, 2019 (ECF 4470).<sup>2</sup> The Debtors’ Chapter 11 Cases are being jointly administered for procedural purposes only pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Rules”).

### **RELIEF REQUESTED**

6. By this Application, the Retirees Committee seeks to retain and employ Mulder Law as its co-counsel, pursuant to Bankruptcy Code sections 328(a) and 1103(a), Bankruptcy Rules 2014(a) and 2016, and Local Rules 2014-1 and 2016-1, *nunc pro tunc* to July 9, 2019.

### **RETENTION OF MULDER LAW**

7. The Retirees Committee respectfully submits that it is necessary and appropriate for it to retain and employ Mulder Law, as co-counsel, to, among other things:

- a. advise the Retirees Committee with respect to its rights, duties and powers in the Chapter 11 Cases;
- b. assist and advise the Retirees Committee in its consultations and negotiations with the Debtors and other parties in interest with respect to the disputed retiree benefits;
- c. assist the Retirees Committee in its investigation of the acts and conduct of the Debtors, their insiders and management with respect to the retiree benefits;
- d. assist and advise the Retirees Committee as to its communications with retirees regarding significant matters in the Chapter 11 Cases;

---

<sup>2</sup> The Retirees Committee currently comprises: (i) Richard Bruce, (ii) Ronald Olbrysh, (iii) Mary Rose Steininger, (iv) James T. Nally, and (v) Joseph E. Hartzell.

- e. represent the Retirees Committee at all hearings and other proceedings before this Court, as appropriate;
- f. review and analyze the Debtors' proposed plan of reorganization and related documents and advise the Retirees Committee as to their propriety and, to the extent deemed appropriate by the Retirees Committee, support, join or object thereto;
- g. advise and assist the Retirees Committee with respect to any legislative, regulatory or governmental activities;
- h. prepare, on behalf of the Retirees Committee, any pleadings, including, without limitation, motions, memoranda, complaints, adversary complaints, objections or comments in connection with any matter related to the Debtors or the Chapter 11 Cases; and
- i. perform such other legal services as may be required or are otherwise deemed to be in the interests of the Retirees Committee in accordance with the Retirees Committee's powers and duties, as set forth in the Bankruptcy Code, Bankruptcy Rules or other applicable law.

8. The Retirees Committee believes Mulder Law possesses extensive knowledge and expertise in the areas of law relevant to the Retirees' needs, and that Mulder Law is well qualified to represent the Retirees Committee in the Chapter 11 Cases. In selecting co-counsel, the Retirees Committee sought attorneys with considerable experience in representing the retired employees of the Debtors. Mulder Law has such experience, as Mulder Law previously represented such retired employees with respect to the very benefits that are the subject of the dispute.

9. Because of the extensive legal services that the Retirees Committee requires in connection with the Chapter 11 Cases, and the fact that the full nature and extent of such services are not known at this time, the Retirees Committee believes that the employment of Mulder Law to provide the services described above and such other services as may be necessary for the Retirees Committee to satisfy its obligations to the Debtors' retired employees is appropriate and in the best interests of the Debtors' estates and their creditors.

10. The Retirees Committee requests that all fees and related costs and expenses incurred by the Retirees Committee on account of services rendered by Mulder Law in the Chapter 11 Cases be paid as administrative expenses of the Debtors' estates pursuant to Bankruptcy Code sections 328, 330, 331, 503(b) and 507(a)(2). Subject to this Court's approval, Mulder Law will charge for its legal services on an hourly basis in accordance with its ordinary and customary hourly rates in effect on the date such services are rendered, subject to Bankruptcy Code sections 328, 330 and 331. Mulder Law's hourly rates are subject to periodic adjustments (typically in January of each year) to reflect economic and other conditions. The current hourly rates charged, and the projected adjusted hourly rates that are charged as of January 2019, by Mulder Law for professionals and paraprofessionals employed in its offices are provided below:

<b><u>Billing Category</u></b>	<b><u>Hourly Rate</u></b>
Partners	\$ 900
Associates	\$ 690
Paraprofessionals	\$ 240

11. Mulder Law has advised the Retirees Committee that it is Mulder Law's policy to charge its clients in all areas of practice for expenses incurred in connection with its representation



of a client. The expenses charged to clients include, among other things, photocopying charges, travel expenses, expenses for “working meals” and computerized research. Mulder Law will maintain detailed records of actual and necessary costs and expenses incurred in connection with the legal services provided to the Retirees Committee.

12. The names, positions and 2019 hourly rates of the Mulder Law attorneys currently expected to have primary responsibility for providing services to the Retirees Committee are as follows:

<u><b>Attorney</b></u>	<u><b>Position</b></u>	<u><b>Hourly Rate</b></u>
Michael M. Mulder	Partner	\$ 900
Elena N. Liveris	Associate	\$ 690

In addition to the lawyers named above, the Retirees Committee understands that it will be necessary, during the course of these cases, for other Mulder Law professionals in other legal disciplines to provide services to the Retirees Committee.

13. Mulder Law has advised the Retirees Committee that it will apply for compensation and reimbursement of expenses in accordance with the procedures set forth in Bankruptcy Code sections 330 and 331, the applicable Bankruptcy Rules, the applicable Local Rules, the General Order M-412 (Order Establishing Procedures for Monthly Compensation and Reimbursement of Expenses of Professionals, dated December 21, 2010 (Gonzalez, C.J.)), and the Administrative Order M-447 (Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases, dated January 29, 2013 (Morris, C.J.)) and any further orders of the Court for all professional services performed and expenses incurred.

14. Mulder Law has advised the Retirees Committee that it also intends to make reasonable efforts to comply with the U.S. Trustee’s requests for information and additional

disclosures as set forth in the *Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 USC § 330 by Attorneys in Larger Chapter 11 Cases Effective as of November 1, 2013* (the “Revised UST Guidelines”), both in connection with this Application and in the interim fee applications and final fee applications to be filed by Mulder Law in the Chapter 11 Cases.<sup>3</sup> To that end, Mulder Law has advised the Retirees Committee that it responds to the questions set forth in Section D of the Revised UST Guidelines as follows:

- a. Mulder Law did not agree to any variations from, or alternatives to, its standard or customary billing arrangements for this engagement;
- b. No rate for any of the professionals included in this engagement varies based on the geographic location of the Chapter 11 Cases;
- c. Mulder Law did not represent any member of the Retirees Committee in connection with the Chapter 11 Cases prior to its retention by the Retirees Committee, except that (a) it was co-counsel for two retirees that successfully moved for the formation of the committee and who have agreed to Mulder Law’s withdrawal as their counsel so that it may represent the interests of the committee and (b) that it served as lead-Class Counsel for plaintiffs and the class in *In re: Sears Retiree Group Life Insurance Litigation*, Civil Action No. 97 C 7453 (D. Ill.) (“Sears Life Insurance Litigation”), which resulted in a

---

<sup>3</sup> Mulder Law’s intention to make reasonable efforts to comply with the U.S. Trustee’s requests for information and additional disclosures as set forth in the Revised UST Guidelines in connection with the Application and the interim and final fee applications to be filed by Mulder Law in the Debtors’ Chapter 11 Cases is based exclusively on the facts and circumstances of the Chapter 11 Cases. Mulder Law reserves the right to object to the requirements contained in the Revised UST Guidelines should it determine that it is appropriate to do so.

Stipulation of Settlement with vested retiree life insurance benefits for the class;  
and

- d. The Retirees Committee has approved Mulder Law's proposed hourly billing rates. The Mulder Law attorneys set forth above in paragraph 12 will be the primary attorneys staffed on the Chapter 11 Cases, subject to modification based on the facts and circumstances of the Chapter 11 Cases and the needs of the Retirees Committee.

15. Upon information and belief, Mulder Law does not represent and does not hold any interest adverse to the Debtors' estates or their creditors in the matters upon which Mulder Law is to be engaged, except to the extent set forth in the Mulder Declaration. Mulder Law has, however, a numerous and varied client base and may represent or may have represented certain of the Debtors' creditors, equity holders, related parties or other parties in interest in matters unrelated to these cases.

#### **EFFORTS TO AVOID DUPLICATION OF SERVICES**

16. The Retirees Committee and Mulder Law are mindful of the need to avoid duplication of services, and Mulder Law shall use its best efforts to avoid duplication of services provided by any of the Retirees Committee's other proposed or retained co-counsel in these Chapter 11 Cases. Mulder Law will coordinate with co-counsel to ensure that there is no unnecessary duplication of effort by Mulder Law. Proposed co-counsel at Wollmuth Maher & Deutsch LLP are experienced bankruptcy attorneys, however, they did not represent the retirees in the Sears Life Insurance Litigation that resulted in the benefits being vested. Thus, co-counsel has unique knowledge that will assist the Retirees Committee.

**NUNC PRO TUNC RELIEF**

17. The Retirees Committee believes that the employment of Mulder Law effective *nunc pro tunc* to July 9, 2019, the date the Retirees Committee selected Mulder Law as its proposed co-counsel, is warranted under the circumstances of the Chapter 11 Cases. Upon its selection, the Retirees Committee requested Mulder Law to commence work immediately on time-sensitive matters and devote substantial resources to these Chapter 11 Cases prior to the submission and approval of this Application. Thus, Mulder Law has provided, and will continue to provide, valuable services to the Retirees Committee.

18. Courts in this jurisdiction routinely approve *nunc pro tunc* employment similar to that requested herein. *See, e.g., In re Tops Holding II Corporation*, No. 18-22279 (RDD) (ECF No. 352) (Bankr. S.D.N.Y. Mar. 22, 2018); *In re MPM Silicones, LLC*, No. 14-22503 (RDD) (ECF No. 256) (Bankr. S.D.N.Y. Apr. 28, 2014); *In re Sbarra LLC*, No. 14-10557 (MG) (ECF No. 219) (Bankr. S.D.N.Y. Apr. 7, 2014). Accordingly, the Retirees Committee respectfully requests that the Court authorize employment of Mulder Law *nunc pro tunc* to July 9, 2019.

**NO PRIOR REQUEST**

19. No prior request for the relief sought herein has been made to this Court or any other court.

**NOTICE**

20. Notice of this Application will be provided in accordance with the procedures set forth in the *Amended Order Implementing Certain Notice and Case Management Procedures* (ECF 405). The Retirees Committee respectfully submits that no further notice is required.

**CONCLUSION**

WHEREFORE, the Retirees Committee respectfully requests that the Court (a) enter an order substantially in the form annexed hereto as **Exhibit A**, authorizing the Retirees Committee to retain and employ Mulder Law as its co-counsel *nunc pro tunc* to July 9, 2019, and (b) provide the Retirees Committee such other and further relief as the Court may deem proper.

Dated: July 30, 2019  
New York, New York

OFFICIAL COMMITTEE OF RETIREES  
WITH LIFE INSURANCE BENEFITS OF  
THE SEARS HOLDINGS CORPORATION,  
*ET AL.*

By: /s/ Ronald Olbrysh  
Ronald Olbrysh  
CHAIRMAN

**EXHIBIT A**

**Proposed Order**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

SEARS HOLDINGS CORPORATION, *et al.*,

Debtors.

Case No: 18-23538 (RDD)

Chapter 11

(Jointly Administered)

**ORDER AUTHORIZING THE OFFICIAL COMMITTEE OF  
RETIREES WITH LIFE INSURANCE BENEFITS OF THE SEARS  
HOLDINGS CORPORATION, ET AL. TO RETAIN AND EMPLOY  
THE LAW OFFICES OF MICHAEL M. MULDER AS CO-COUNSEL,  
*NUNC PRO TUNC TO JULY 9, 2019***

Upon the application (the “Application”)<sup>1</sup> of Official Committee of Retirees With Life Insurance Benefits (the “Retirees Committee”) of Sears Holdings Corporation and its affiliated debtors and debtors in possession (collectively, the “Debtors”) for entry of an order, pursuant to sections 328(a) and 1103(a) of title 11 of the United States Code (the “Bankruptcy Code”), rules 2014(a) and 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and rules 2014- 1 and 2016-1 of the Local Rules of Bankruptcy Procedure for the Southern District of New York (the “Local Rules”), authorizing the Retirees Committee to retain and employ The Law Offices of Michael M. Mulder (“Mulder Law”) as its counsel in connection with the Debtors' chapter 11 cases (the “Chapter 11 Cases”), and upon the declaration of Michael M. Mulder, a partner of Mulder Law (the “Mulder Declaration”); and it appearing that the attorneys of Mulder Law who will perform services on behalf of the Retirees Committee in the Chapter 11 Cases are duly qualified to practice before this Court; and the Court finding, based on the

---

<sup>1</sup> Capitalized terms not otherwise defined herein shall have the same meanings ascribed to them in the Motion.

representations made in the Application and the Declarations, that Mulder Law does not represent any interest adverse to the Retirees Committee or the Debtors' estates with respect to the matters upon which it is to be engaged, that it is a "disinterested person," as that term is defined in Bankruptcy Code section 101(14), as modified by Bankruptcy Code section 1107(b), and as required by Bankruptcy Code section 328, that its employment is necessary and in the best interests of the Retirees Committee and the Debtors' estates; and the Court having jurisdiction to decide the Application and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b) and the Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Application and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409; and finding that adequate notice of the Application having been given; and it appearing that no other notice need be given; and the Court having held a hearing to consider the relief requested in the Application (the "Hearing"); and upon the record of the Hearing, and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is hereby **ORDERED THAT:**

1. The relief requested in the Application is granted as set forth herein.
2. In accordance with Bankruptcy Code sections 328(a) and 1103(a), Bankruptcy Rules 2014(a) and 2016, and Local Rules 2014-1 and 2016-1, the Retirees Committee is hereby authorized and empowered to retain and employ Mulder Law as its co-counsel to represent it in these Chapter 11 Cases and related matters and proceedings on the terms set forth in the Application and the Mulder Declaration, effective *nunc pro tunc* to July 9, 2019.
3. Mulder Law shall be compensated in accordance with the procedures set forth in Bankruptcy Code sections 330 and 331, the applicable Bankruptcy Rules, the applicable Local



Rules, the General Order M-412 (Order Establishing Procedures for Monthly Compensation and Reimbursement of Expenses of Professionals, dated December 21, 2010 (Gonzalez, C.J.)) and the Administrative Order M-447 (Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases, dated January 29, 2013 (Morris, C.J.)) and any further orders of the Court for all professional services performed and expenses incurred.

4. Mulder Law shall file a supplemental declaration with this Court and give not less than 10 business days' notice to the Debtors, the U.S. Trustee, and the Retirees Committee prior to any increases in the rates set forth in the Application. The supplemental declaration shall explain the basis for the requested rate increases in accordance with Bankruptcy Code section 330(a)(3)(F) and state whether the Committee has consented to the rate increase.

5. To the extent any provision of the Application is inconsistent with this Order, the terms of this Order shall govern.

6. The Retirees Committee is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

7. The terms and conditions of this Order shall be effective immediately and enforceable upon its entry.

8. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: White Plains, New York  
\_\_\_\_\_, 2019

---

THE HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT B**

**Mulder Declaration**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

SEARS HOLDINGS CORPORATION, *et al.*,

Debtors.

Case No: 18-23538 (RDD)

Chapter 11

(Jointly Administered)

**DECLARATION OF MICHAEL M. MULDER IN SUPPORT OF THE  
APPLICATION OF THE OFFICIAL COMMITTEE OF RETIREES  
WITH LIFE INSURANCE BENEFITS OF THE SEARS HOLDINGS  
CORPORATION, ET AL. TO RETAIN AND EMPLOY THE LAW  
OFFICES OF MICHAEL M. MULDER AS CO-COUNSEL, *NUNC PRO  
TUNC TO JULY 9, 2019***

Under 28 U.S.C. § 1746, I, Michael M. Mulder, declare as follows under the penalty of perjury:

1. I am an attorney admitted to practice in the State of Illinois and plan to file my appearance in this matter through association with a member of this Court.
2. I am a partner of the firm of The Law Offices of Michael M. Mulder (“Mulder Law”). Mulder Law maintains offices at 1603 Orrington Avenue, Suite 600, Evanston, Illinois 60201. There are no disciplinary proceedings pending against me.
3. I am familiar with the matters set forth herein and make this declaration (the “Declaration”) in support of the application (the “Application”)<sup>1</sup> of the Official Committee of Retirees With Life Insurance Benefits (the “Retirees Committee”) of Sears Holdings Corporation and its affiliated debtors and debtors in possession (collectively, the “Debtors”) authorizing and

---

<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Application.

approving the Retirees Committee's retention and employment of Mulder Law as counsel to the Retirees Committee.

4. An official committee of Retirees with Life Insurance Benefits (the "Retirees Committee") was appointed on July 9, 2019 (ECF 4470). The Retirees Committee currently comprises: (i) Richard Bruce, (ii) Ronald Olbrysh, (iii) Mary Rose Steininger, (iv) James T. Nally, and (v) Joseph E. Hartzell. The Retirees Committee selected Mulder Law to serve as counsel to the Retirees Committee, subject to Court approval.

5. I am not, nor is Mulder Law, an insider of the Debtors. Except as set forth below, neither Mulder Law nor I hold directly any claim, debt or equity security of the Debtors.

6. To the best of my knowledge and information, no partner or employee of Mulder Law has been, within two years from the Petition Date, a director, officer or employee of the Debtors as specified in Bankruptcy Code section 101(14)(B).

7. Mulder Law does not have an interest materially adverse to the interests of the Debtors' estates or of any class of creditors or equity security holders of the Debtors, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors, as specified in Bankruptcy Code section 101(14)(C), or for any other reason.

8. Mulder Law does not currently represent the Debtors or, to the best of my knowledge and information, any of their related parties, affiliates, partners, or subsidiaries. Moreover, Mulder Law will not undertake the representation of any party other than the Retirees Committee in connection with the Chapter 11 Cases.

9. To the best of my knowledge and information, Mulder Law neither holds nor represents any interest adverse to the Retirees Committee, the Debtors, their creditors or other parties in interest or their respective attorneys in connection with the Chapter 11 Cases. Based

upon information available to me, I believe that Mulder Law is a “disinterested person” within the meaning of Bankruptcy Code section 101(14).

10. In preparing this Declaration, I completed a conflict analysis with the parties in interest identified by the Debtors and additional parties identified by Mulder Law, which included: (i) the Debtors and their affiliates; (ii) the 40 largest unsecured creditors; (iii) all interest parties having filed a notice of appearance and been included on the Debtors’ master service list; and (iv) the members of the Retirees Committee. I have concluded that no known conflict exists for Mulder Law in this matter.

**Representation of Parties in Interest**

11. The firm previously represented two individual members of the Retirees Committee, Richard Brush and Ronald Olbrysh, for the sole purpose of seeking to form the committee. The firm also previously served as counsel for named class representative Bruce and class member Olbrysh (now, the Chairman and Vice Chairman of the Retirees Committee), and as lead-Class Counsel for plaintiffs and the class in *In re: Sears Retiree Group Life Insurance Litigation*, Civil Action No. 97 C 7453 (D. Ill.) (“Sears Life Insurance Litigation”), which resulted in a Stipulation of Settlement with vested retiree life insurance benefits for the class. Those members have agreed to the firm’s withdrawal of its representation of them in connection with the formation of the committee in the above-captioned matter and consent to the firm’s representation of the committee.

12. In connection with the services to be rendered to the Retirees Committee, Mulder Law will not commence a cause of action against any current client with respect to the Chapter 11 Cases, unless Mulder Law has received a waiver from the current client allowing Mulder Law to commence such an action. In connection with the Chapter 11 Cases, to the extent any causes

of action are commenced by or against any current client, and a waiver letter is not obtained permitting Mulder Law to participate in such action, the Retirees Committee will retain conflicts counsel to represent the interests of the Debtors' unsecured creditors.

**Connections With Parties Representing 1% or More of Revenue**

13. At the inception of each engagement for which a declaration is required pursuant to Bankruptcy Rule 2014, Mulder Law reviews the information relating to the parties involved in a bankruptcy case to determine whether any such party, together with its known related entities, were clients of Mulder Law and, as a result, made payments to Mulder Law for services rendered in the calendar year prior to the date of review that in the aggregate for each such party exceeds 1% of Mulder Law's total revenues for such calendar year. In connection with this Declaration, Mulder Law has reviewed similar information for the years 2016, 2017, and 2018.

14. Mulder Law has no record of revenues for services rendered on behalf of any of the parties identified in paragraph 10 above.

**Connections with the Debtors and Official Unsecured Creditors Committee**

15. Mulder Law has not represented the Debtors or any of the Debtors' affiliates or any members of the official Unsecured Creditors Committee.

16. Mulder Law in the past has represented parties potentially adverse to the Debtors and the Debtors' affiliates in matters wholly unrelated to the Debtors' Chapter 11 Cases.

**Other Connections and General Disclosures**

17. Mulder Law may have represented in the past and/or currently may represent or in the future represent entities not known currently to Mulder Law in matters wholly unrelated to the Chapter 11 Cases who may be parties in interest in these cases. To the extent that Mulder Law discovers any such information or needs to update the information disclosed herein, Mulder

Law will disclose such information by filing a supplemental declaration pursuant to Bankruptcy Rule 2014.

18. In addition to the foregoing, after reasonable inquiry, I do not believe there is any connection between Mulder Law and the U.S. Trustee or any person known by me to be employed as an attorney with the office of such U.S. Trustee.

19. It is possible that a professionally managed retirement plan on behalf of Mulder Law employees or members of a 401(k) type plan may hold equity interests in or other securities of the Debtors, but it is unknown to me at this time.

20. None of Mulder Law's representations of creditors or other parties in interest who are involved in these Chapter 11 Cases comprise a material component of Mulder Law's practice, nor does Mulder Law currently represent such parties on any issue relating to these Chapter 11 Cases. For the reasons stated herein, Mulder Law represents no interests adverse to the Debtors' individual creditors or the Retirees Committee and, therefore, is capable of fulfilling its duties to the Retirees Committee.

### **Compensation**

21. Mulder Law is willing to be retained by the Retirees Committee as its counsel and will make appropriate applications to this Court pursuant to Bankruptcy Code sections 330 and 331 for compensation and reimbursement of out-of-pocket expenses, all in accordance with the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Interim Case Management Order, and any other applicable order of the Court. Mulder Law will bill at its standard hourly rates, which, on a firm-wide basis, currently are for 2019 as follows:

<b><u>Billing Category</u></b>	<b><u>Hourly Rate</u></b>
Partners	\$ 900

Associates	\$ 690
Paraprofessionals	\$ 240

22. The names, positions and 2019 hourly rates of the Mulder Law attorneys currently expected to have primary responsibility for providing services to the Retirees Committee are as follows:

<u>Attorney</u>	<u>Position</u>	<u>Hourly Rate</u>
Michael M. Mulder	Partner	\$ 900
Elena N. Liveris	Associate	\$ 690

23. The foregoing hourly rates are subject to periodic increase (typically in January of each year) in the normal course of Mulder Law's business. From time to time, other attorneys and paralegals will assist in the representation of the Retirees Committee in connection with these cases at Mulder Law's standard hourly rates in effect for those personnel. The hourly rates set forth above are Mulder Law's standard hourly rates for work of this nature. These rates are set at a level designated to compensate Mulder Law fairly for the work of its attorneys and paralegals and to cover fixed and routine overhead expenses. Mulder Law operates in a complicated marketplace for legal services in which rates are driven by multiple factors relating to the individual lawyer, his or her area of specialization, the firm's expertise, performance, reputation, the nature of the work involved and other factors. Because the submarkets for legal services are fragmented and are affected by a variety of individualized and interdependent factors, Mulder Law's rates for certain individual attorneys may vary as a function of the type of matter, the nature of certain long-term client relationships, and various other factors, including those enumerated above.



24. It is Mulder Law's policy to charge its clients in all areas of practice for all other expenses incurred in connection with the client's case. The expenses charged to clients include, among other things, photocopying charges, travel expenses, expenses for "working meals" and computerized research. Mulder Law will seek reimbursement for such expenses in accordance with the procedures set forth in Bankruptcy Code sections 330 and 331, the applicable Bankruptcy Rules, the applicable Local Rules, the General Order M-412 (Order Establishing Procedures for Monthly Compensation and Reimbursement of Expenses of Professionals, dated December 21, 2010 (Gonzalez, C.J.)), and the Administrative Order M-447 (Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases, dated January 29, 2013 (Morris, C.J.)) and any further orders of the Court for all professional services performed and expenses incurred.

25. No agreement exists, nor will any be made, to share any compensation received by Mulder Law for its services with any other person or firm other than members of Mulder Law.

26. For the reasons stated herein, Mulder Law represents no interest adverse to the Debtors' individual creditors or the Retirees Committee and, therefore, is capable of fulfilling its duties to the Retirees Committee and the unsecured creditors that the Retirees Committee represents.

27. The foregoing constitutes the statement of Mulder Law pursuant to Bankruptcy Code sections 328(a), 329, 504, and 1103(a), Bankruptcy Rules 2014(a) and 2016(b), and Local Rules 2014-1 and 2016-1.

**Statement Regarding U.S. Trustee Guidelines**

28. The Retirees Committee and Mulder Law intend to make a reasonable effort to comply with the U.S. Trustee's requests for information and additional disclosures as set forth in the Revised UST Guidelines, both in connection with this Application and the interim and final fee applications to be filed by Mulder Law in the course of its engagement. In doing so, however, the Retirees Committee and Mulder Law reserve all rights as to the relevance and substantive legal effect of the Revised UST Guidelines in respect of any application for employment or compensation in these cases that falls within the ambit of the Revised UST Guidelines.

29. The following is provided in response to the request for additional information set forth in Section D.1 of the Revised UST Guidelines.

- a. Mulder Law did not agree to any variations from, or alternatives to, its standard or customary billing arrangements for this engagement.
- b. No rate for any of the professionals included in this engagement varies based on the geographic location of the bankruptcy case.
- c. Mulder Law did not represent any member of the Retirees Committee in the Debtors' Chapter 11 Cases prior to its retention by the Retirees Committee, except (a) that it was co-counsel for two retirees that successfully moved for the formation of the committee and who have agreed to Mulder Law's withdrawal as their counsel so that it may represent the interests of the committee and (b) that it served as lead-Class Counsel for plaintiffs and the class in In re: Sears Retiree Group Life Insurance Litigation, Civil Action No. 97 C 7453 (D. Ill.) ("Sears Life

Insurance Litigation”), which resulted in a Stipulation of Settlement with vested retiree life insurance benefits for the class.

- d. Mulder Law expects to develop a prospective budget and staffing plan to comply reasonably with the U.S. Trustee's request for information and additional disclosures, as to which Mulder Law reserves all rights.
- e. The Retirees Committee has approved Mulder Law’s proposed hourly billing rates. The primary Mulder Law attorneys staffed on the Debtors’ Chapter 11 Cases, subject to modification depending upon further development, are set forth above in paragraph 22.

I declare under penalty of perjury that the foregoing is true and correct on this 30th day of July 2019.

/s/ *Michael M. Mulder*

Michael M. Mulder